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Address of the Philadelphia Convention

TO THE PEOPLE OF THE UNITED STATES.

Having met in Convention at the city of Philadelphia, in the State of Pennsylvania, this 16th day of August, 1866, as the representatives of the people in all sections, and all the States and Territories of the Union, to consult upon the condition and wants of our common country, we address to you this declaration of our principles, and of the political purposes we seek to promote.

Since the meeting of the last National Convention, in the year 1860, events have occurred which have changed the character of our internal politics, and given the United States a new place among the nations of the earth. Our government has passed through the vicissitudes and perils of civil war—a war which, though mainly sectional in its character, has nevertheless decided political differences that from the very beginning of the government had threatened the unity of our national existence, and has left its impress deep and ineffaceable upon all the interests, the sentiments, and the destiny of the republic. While it has inflicted upon the whole country severe losses in life and in property, and has imposed burdens which must weigh on its resources for generations to come, it has developed a degree of national courage in the presence of national dangers—a capacity for military organization and achievement, and a devotion on the part of the people to the form of government which they have ordained, and to the principles of liberty which that government was designed to promote, which must confirm the confidence of the people in the perpetuity of its republican institutions, and command the respect of the civilized world.

Like all great contests which rouse the passions and test the endurance of nations, this war has given new scope to the ambition of political parties, and fresh impulse to plans of innovation and reform. Amidst the chaos of conflicting sentiments inseparable from such a era, while the public heart is keenly alive to all the passions that can sway the public judgment and affect the public action; while the wounds of war are still fresh and bleeding on either side, and fears for the future take unjust proportions from the memories and resentments of the past, it is a difficult, but an imperative duty which on your behalf we, who are here assembled, have undertaken to perform.

For the first time after six long years of alienation and of conflict, we have come together from every State and every section of our land, as citizens of a common country, under that flag, the symbol again of a common glory, to consult together how best to cement and perpetuate that Union which is again the object of our common love, and thus secure the blessings of liberty to ourselves and our posterity.

In the first place, we invoke you to remember always and everywhere, that the war is ended and the nation again at peace. The shock of contending armies no longer assails the shuddering heart of the republic. The insurrection against the supreme authority of the nation has been suppressed, and that authority has been again acknowledged, by word and act, by every State and by every citizen within its jurisdiction. We are no longer required or permitted to regard or treat each other as enemies. Not only have the acts of war been discontinued, and the weapons of war laid aside, but the state of war no longer exists, and the sentiments, the passions, the relations of war have no longer lawful or rightful place anywhere throughout our broad domain. We are again people of the United States, fellow-citizens of one country, bound by the duties and obligations of a common patriotism, and having neither rights nor interests apart from a common destiny. The duties that devolve upon us now are again the duties of peace, and no longer the duties of war. We have assembled here to take counsel concerning the interests of peace; to decide how we may most wisely and effectually heal the wounds the war has made, and perfect and perpetuate the benefits it has secured, and the blessings which, under a wise and benign Providence, have sprung up in its fiery track. This is the work, not of passion, but of calm and sober judgment; not of resentment for past offenses, prolonged beyond the limit which justice and reason prescribe, but of a liberal statesmanship

which tolerates what it cannot prevent, and builds its plans and hopes for the future, rather upon a community of interest and ambition than upon distrust and the weapons of force.

In the next place, we call upon you to recognize in their full significance, and to accept with all their legitimate consequences, the political results of the war just closed. In two most important particulars the victory achieved by the national government has been final and decisive. First it has established beyond all further controversy, and by the highest of all human sanctions, the absolute supremacy of the national government, as defined and limited by the Constitution of the United States and the permanent integrity and indissolubility of the Federal Union as a necessary consequence; and second, it has put an end finally and forever to the existence of slavery upon the soil and in the jurisdiction of the United States. Both these points became directly involved in the contest, and controversy upon both was ended absolutely and finally by the result.

In the third place, we deem it of the utmost importance that the real character of the war and the victory by which it was closed should be accurately understood. The war was carried on by the United States in maintenance of its own authority and in defence of its own existence, both of which were menaced by the insurrection which it sought to suppress. The suppression of that insurrection accomplishes that result. The government of the United States maintained by force of arms the supreme authority over all the territory, and over all the States and people within its jurisdiction which the Constitution confers upon it; but it acquired thereby no new power, no enlarged jurisdiction, no rights of territorial possession or of civil authority which it did not possess before the rebellion broke out. All the rightful power it can ever possess is that which is conferred upon it, either in express terms or by fair and necessary implication, by the Constitution of the United States. It was that power and that authority which the rebellion sought to overthrow, and the victory of the Federal arms was simply a defeat of that attempt. The government of the United States acted throughout the war on the defensive. It sought only to hold possession of what was already its own. Neither the war nor the victory by which it was closed, changed in any way the Constitution of the United States. The war was carried on by virtue of its provisions, and under the limitations which they prescribe, and the result of the war did not either enlarge, abridge, or in any way change or affect the powers it confers upon the Federal government, or released that government from the restrictions which it has imposed.

The Constitution of the United States is to-day precisely as it was before the war, the "supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding," and to-day, also, precisely as before the war, all the powers not conferred by the Constitution upon the general government, nor prohibited by it to the States, are "reserved to the several States, or to the people thereof."

This position is vindicated not only by the essential nature of our government, and the language and spirit of the Constitution, but by all the acts and the language of our government, in all its departments, and at all times from the outbreak of the rebellion to its final overthrow. In every message and proclamation of the Executive it was explicitly declared that the sole object and purpose of the war was to maintain the authority of the Constitution and to preserve the integrity of the Union; and Congress more than once reiterated this solemn declaration, and added the assurance that whenever this object should be attained, the war should cease, and all the States should retain their equal rights and dignity unimpaired. It is only since the war was closed that other rights have been asserted on behalf of one department of the general government. It has been proclaimed by Congress that, in addition to the powers conferred upon it by the Constitution, the Federal Government may now claim over the States, the territory and the people involved in the insurrection, the rights of war, the right of conquest and of confiscation, the right to abrogate all existing governments institutions and laws, and to subject the territory conquered and its inhabitants to such laws, regulations and deprivations as the legislative departments of the government may see fit to impose. Under this broad and sweeping claim, that clause of the Constitution which provides that "no State shall without its consent be deprived of its equal suffrage in the Senate of the United States," has been annulled, and ten States have been refused, and are still refused, representation altogether in both branches of the Federal Congress. And the Congress in which only a part of the States and of the people of the Union are represented has asserted the right thus to exclude the rest from representation, and from all share in making their own laws or cho-

osing their own rulers and they shall comply with such conditions and perform such acts as this Congress thus composed may itself prescribe. That right has not only been asserted, but it has been exercised, and is practically enforced at the present time. Nor does it find any support in the theory, that the States thus excluded are in rebellion against the government, and are therefore precluded from sharing its authority. They are not thus in rebellion. They are one and all in an attitude of loyalty towards the government, and of sworn allegiance to the Constitution of the United States. In no one of them is there the slightest indication of resistance to this authority, or the slightest protest against its just and binding obligation. This condition of renewed loyalty has been officially recognized by solemn proclamation of the Executive department. The laws of the United States have been extended by Congress over all these States and the people thereof. Federal Courts have been reopened, and Federal taxes imposed and levied, and in every respect, except that they are denied representation in Congress and the Electoral College, the States once in rebellion are recognized as holding the same position, as owing the same obligations, and subject to the same duties as the other States of our common Union.

It seems to us in the exercise of the calmest and most candid judgment we can bring to the subject, that such a claim, so enforced, involves as fatal an overthrow of the authority of the Constitution, and as complete a destruction of the government and Union, as that which was sought to be effected by the States and people in armed insurrection against them both. It cannot escape observation that the power thus asserted to exclude certain States from representation, is made to rest wholly in the will and discretion of the Congress that asserts it. It is not made to depend upon any specified conditions or circumstances, nor to be subject to any rules or regulations whatever. The right asserted and exercised is absolute, without qualification or restriction, not confined to States in rebellion, nor to States that have rebelled; it is the right of any Congress in formal possession of legislative authority, to exclude any State or States, and any portion of the people thereof, at any time, from representation in Congress and in the Electoral College, at its own discretion and until they shall perform such acts and comply with such conditions as it may dictate. Obviously, the reasons for such exclusion being wholly within the discretion of Congress, may change as the Congress itself shall change. One Congress may exclude a State from all share in the government for one reason; and, that reason removed, the next Congress may exclude it for another. One State may be excluded on one ground to-day, and another may be excluded on the opposite ground to-morrow. Northern ascendancy may exclude Southern States from one Congress—the ascendancy of Western or Southern interests, or of both combined, may exclude the Northern or the Eastern States from the next. Improbable as such usurpations may seem, the establishment of the principle now asserted and acted upon by Congress will render them by no means impossible. The character, indeed the very existence of Congress and the Union is thus made dependent solely and entirely upon the party and sectional exigencies or forbearance of the hour.

We need not stop to show that such action not only finds no warrant in the Constitution, but is at war with every principle of our government, and with the very existence of free institutions. It is, indeed, the identical practice which has rendered fruitless all attempts hitherto to establish and maintain free governments in Mexico and the States of South America. Party necessities assert themselves as superior to the fundamental law, which is set aside in reckless obedience to their behests. Stability, whether in the exercise of power, in the administration of government, or in the enjoyment of rights, becomes impossible; and the conflicts of party, which, under constitutional governments, are the conditions and means of political progress, are merged in the conflicts of arms to which they directly and inevitably tend.

It was against this peril so conspicuous and so fatal to all free governments that our Constitution was intended especially to provide. Not only the stability but the very existence of the government is made by its provisions to depend upon the right and the fact of representation. The Congress, upon which is conferred all the legislative power of the national government, consists of two branches, the Senate and House of Representatives, whose joint concurrence or assent is essential to the validity of any law. Of these the House of Representatives, says the Constitution, (article one, section two), "shall be composed of members chosen every second year by the people of the several States."

Not only is the right of representation thus recognized as possessed by all the States and every State without

restriction, qualification, or condition of any kind, but this duty of choosing representatives is imposed upon the people of each and every State alike, without distinction, or the authority to make distinctions among them, for any reason or upon any grounds whatever. And in the Senate, so careful is the Constitution to secure to every State the right of representation, it is expressly provided that "no State shall, without its consent, be deprived of its equal suffrage" in that body, even by an amendment of the Constitution itself. When, therefore, any State is excluded from such representation, not only is the right of the State denied, but the constitutional integrity of the Senate is impaired, and the validity of the government itself is brought in question. But Congress at the present moment thus excludes from representation in both branches of Congress, ten States of the Union, denying them all share in the enactment of laws by which they are to be governed, and all participation in the election of the rulers by which those laws are to be enforced. In other words, a Congress in which only twenty six States are to be represented, asserts the right to govern, absolutely and in its own discretion, all the thirty-six States which compose the Union—to make their laws and choose their rulers, and to exclude the other ten from all share in their own government until it sees fit to admit them thereto. What is there to distinguish the power thus asserted and exercised from the most absolute and intolerable tyranny?

Nor do these extravagant and unjust claims on the part of Congress to power and authority never conferred upon the government by the Constitution find any warrant in the arguments or excuses urged on their behalf. It is alleged,

First. That these States, by the act of rebellion and by voluntarily withdrawing their members from Congress, forfeited their right of representation, and that they can only receive it again at the hands of the supreme legislative authority of the government, on its own terms and at its own discretion. If representation in Congress and participation in the government were simply privileges conferred and held by favor, this statement might have the merit of plausibility. But representation is under the Constitution not only expressly recognized as a right, but it is imposed as a duty; and it is essential in both aspects to the existence of the government and to the maintenance of its authority. In free governments fundamental and essential rights cannot be forfeited, except against individuals by due process of law; nor can constitutional duties and obligations be discarded or laid aside. The enjoyment of rights may be for a time suspended by the failure to claim them, and duties may be evaded by the refusal to perform them. The withdrawal of their members from Congress by the States which resisted the general government was among their acts of insurrection—was one of the means and agencies by which they sought to impair the authority and defeat the action of the government; and that act was annulled and rendered void when the insurrection itself was suppressed. Neither the right of representation nor the duty to be represented was in the least impaired by the fact of insurrection; but it may have been by reason of the insurrection the conditions on which the enjoyment of that right and the performance of that duty for the time depended could not be fulfilled. This was, in fact, the case. An insurgent power, in the exercise of usurped and unlawful authority in the territory under its control, had prohibited that allegiance to the Constitution and laws of the United States which is made by that fundamental law the essential condition of representation in its government. No man within the insurgent States was allowed to take the oath to support the Constitution of the United States, and, as a necessary consequence, no man could lawfully represent those States in the councils of the Union. But this was only an obstacle to the enjoyment of the right and to the discharge of a duty—it did not annul the one nor abrogate the other; and it ceased to exist when the usurpation by which it had been created had been overthrown, and the States had again resumed their allegiance to the Constitution and laws of the United States.

Second. But it is asserted, in support of the authority claimed by the Congress now in possession of power, that it flows directly from the laws of war; that it is among the rights which victorious war always confers upon the conquerors, and which the conqueror may exercise or waive in his own discretion. To this we reply, that the laws in question relate solely, so far as the rights they confer are concerned, to wars waged between alien and independent nations, and can have no place or force, in this regard, in a war waged by a government to suppress an insurrection of its own people, upon its own soil against its own authority. If we had carried on successful war against any foreign nation, we might thereby have acquired possession and jurisdiction of their soil, with the right to enforce our laws up-

on their people, and to impose upon them such laws and such obligations as we might choose. But we had before the war complete jurisdiction over the soil of the Southern States, limited only by our own Constitution. Our laws were the only national laws in force upon it. The government of the United States was the only government through which those States and their people had relations with foreign nations, and its flag was the only flag by which they were recognized or known anywhere on the face of the earth. In all these respects, and in all other respects involving national interests and rights, our possession was perfect and complete. It did not need to be acquired, but only to be maintained; and victorious war against the rebellion could do nothing more than maintain it. It could only vindicate and re-establish the disputed supremacy of the Constitution. It could neither enlarge nor diminish the authority which that Constitution confers upon the government by which it was achieved. Such an enlargement or abridgment of constitutional power can be effected only by amendment of the Constitution itself, and such amendment can be made only in the modes which the Constitution itself prescribes. The claim that the suppression of an insurrection against the government gives additional authority and power to that government, especially that it enlarges the jurisdiction of Congress and gives that body the right to exclude States from representation in the national councils, without which the nation itself can have no authority and no existence, seems to us at variance alike with the principles of the Constitution and with the public safety.

Third. But it is alleged that in certain particulars the Constitution of the United States fails to secure that absolute justice and impartial equality which the principles of our government require; that it was in these respects the result of compromises and concessions to which, however necessary when the Constitution was formed, we are no longer compelled to submit, and that now, having the power through successful war and just warrant for its exercise in the hostile conduct of the insurgent section, the actual government of the United States may impose its own conditions, and make the Constitution conform in all its provisions to its own ideas of equality and the rights of man. Congress, at its last session, proposed amendments to the Constitution, enlarging in some very important particulars the authority of the general government over that of the several States, and reducing, by indirect disfranchisement, the representative power of the States in which slavery formerly existed; and it is claimed that these amendments may be made valid as parts of the original Constitution, without the concurrence of the States to be most seriously affected by them, or may be imposed upon those States by three-fourths of the remaining States, as conditions of their re-admission to representation in Congress and in the Electoral College.

It is the unquestionable right of the people of the United States to make such changes in the Constitution as they, upon due deliberation, may deem expedient. But we insist that they shall be made in the mode which the Constitution itself points out—in conformity with the letter and the spirit of that instrument, and with the principles of self-government and of equal rights which lie at the basis of our republican institutions. We deny the right of Congress to make these changes in the fundamental law, without the concurrence of three-fourths of all the States, including especially those to be most seriously affected by them; or to impose them upon States or people as conditions of representation, or of admission to any of the rights, duties, or obligations which belong under the Constitution to all the States alike. And with still greater emphasis do we deny the right of any portion of the States excluding the rest of the States from any share in their councils, to propose or sanction changes in the Constitution which are to affect permanently their political relations and control or coerce the legitimate action of the several members of the common Union. Such an exercise of power is simply a usurpation; just as unwarrantable when exercised by Northern States as it would be if exercised by Southern, and not to be fortified or palliated by anything in the past history either of those by whom it is attempted or of those upon whose rights and liberties it is to take effect. It finds no warrant in the Constitution. It is at war with the fundamental principles of our form of government. If tolerated in one instance it becomes the precedent for future invasions of liberty and constitutional right dependent solely upon the will of the party in possession of power, and thus leads, by direct and necessary sequence to the most fatal and intolerable of all tyrannies—the tyranny of shifting and irresponsible political factions. It is against this, the most formidable of all the dangers which menace the stability of free government, that the Constitution

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